

STATE OF INDIANA)
) SS:
COUNTY OF SULLIVAN)

IN THE SULLIVAN SUPERIOR COURT
2009 TERM
CAUSE NO. 77D01-0907-MI-00273

OSCAR GUILLEN, SR.,)
Plaintiff)
)
VS.)
)
MS. MARK)
Defendant)

FILED
IN SUPERIOR COURT

JUL 15 2009

ORDER

Shelly Ann Smith
Clerk, Sullivan Superior Court

Pursuant to I.C. 34-58-1-1, this Court has examined Plaintiff's Complaint and has determined, pursuant to I.C. 34-58-1-2, that the claim is frivolous in that it does not have an arguable basis in the law and may not state a claim upon which relief may be granted for the following reasons:

1. Plaintiff has failed to provide proof to the Court that he has exhausted his administrative remedies before filing this cause of action. Plaintiff must have complied with the grievance process as a prerequisite to filing a lawsuit for claims of constitutional violations.
2. Further, the Court finds Plaintiff has failed to allege facts sufficient to prosecute this action against the Defendant named in his CIVIL RIGHT'S COMPLAINT pursuant to I.C. 34-13-3-5(c) nor has Plaintiff failed to establish liability given the qualified immunity that may protect the named Defendant.
3. Plaintiff has failed to provide the Court with adequate copies of his Complaint for service.
4. Plaintiff has failed to provide proof he exhausted his administrative remedies prior to filing this cause of action. Merely alleging that complying with the grievance procedure would be "futile" is not enough to avoid compliance with this prerequisite.

Based on the foregoing, the Plaintiff's CIVIL RIGHT'S COMPLAINT is dismissed with prejudice.

SO RECOMMENDED this 15th day of July, 2009.

Ann Smith Mischler
ANN SMITH MISCHLER, Magistrate
Sullivan Superior Court

77D01-0907-MI-00273, 2 Pgs
07/15/2009 Id: 0000156269
ORDER-CAUSE DISMISSED



SO ORDERED this 15th day of July, 2009.



ROBERT E. SPRINGER, Judge
Sullivan Superior Court

Distribution:

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